

The 287(g) Program: Ensuring the Integrity
of America's Border Security System
through Federal-State Partnership.

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10 a.m.

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The Alabama Highway Patrol began in 1935, and in the succeeding years, has developed into the Alabama Department of Public Safety. The Alabama Department of Public Safety consists of the Administrative, Highway Patrol, Driver License, Alabama Bureau of Investigation, Service and Protective Services divisions, employing 676 sworn officers.

In early 2003, the state of Alabama, through Governor Bob Riley's office, approached the Immigration and Naturalization Service. This contact was precipitated by the increase in forged documents presented by individuals applying for Alabama driver license and non-driver identification cards, and the lack of presence of and access to Immigration officers. At the time the governor's office contacted the federal agency, there were only three INS officers in the entire state of Alabama, and, in fact, the state had only recently been assigned two of the three officers.

Alabama U.S. Senator Jeff Sessions and his staff were helpful in communicating information about the 287(g) program and in establishing liaison with INS. In April 2003, Walt Hempel, a senior agent with INS, presented a briefing regarding the 287(g) program to the department's division commanders and the DPS director at the department's Montgomery headquarters. In discussions that followed this briefing, the department and the governor's office determined that the 287(g) program would aid Public Safety in its duty to protect and serve the people of the state of Alabama.

In May the department began negotiating a memorandum of understanding with INS, and in September 2003, the state of Alabama signed a memorandum of understanding with the U.S. Department of Homeland Security. This memorandum was authorized by the Immigration and Nationality Act of 1996, as amended by §133 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; codified at 8 U.S.C. §1357(g).

When the Alabama Department of Public Safety entered into the MOU, it believed it was the right course of action. Now, almost two years later, we can say with certainty the 287(g) program was and remains the right course of action.

In the summer of 2003, Alabama state troopers and driver license examiners received a four-hour course of training in immigration documents and law from

Walt Hempel and other ICE agents. In October 2003, 21 state troopers successfully completed five weeks of extensive immigration training and were sworn in by ICE to enforce federal immigration law.

This first training class began September 3, 2003, and comprised a five-week course taught at the Center for Domestic Preparedness, a DHS facility located near Anniston, Alabama. The teaching staff was made up of instructors from the Federal Law Enforcement Training Center at Glencoe, Georgia.

Subjects covered included Nationality Law, Immigration Law, Document Inspection and Fraudulent Documents, Bias-based Policing, Statutory Authority, Removal Charges, and Juvenile Processing. Because the ICE training was held at the Center for Domestic Preparedness, the troopers were able to take part in ICE booking procedures at the nearby Etowah County ICE holding facility and work with ICE at Atlanta's Hartsfield International Airport. Under the terms of the MOU, Public Safety spent about \$40,000 in overtime and other expenses during the training of the 21 troopers. The Department of Homeland Security paid the remaining costs for the training.

As part of the MOU, the department has developed an outreach program to communicate with constituents the purpose of Alabama's involvement in the 287(g) program. This outreach began when Juan Carlos Lara, a consular officer with the Mexican Consulate in Atlanta, Georgia, addressed the troopers while they were still in training at the Center for Domestic Preparedness. The department also hosted a program in Montgomery for leaders of foreign national organizations and other interested parties from throughout the state in 2003. The director of the department has taken part in a number of panel discussions at various gatherings of foreign nationals in Birmingham and other locales throughout the state. The department's Public Information staff has appeared on numerous radio talk shows that cater to foreign nationals and regularly conducts interviews regarding the program. The main point the department works to communicate is that Alabama's program is reactive, not proactive, and that troopers must have state probable cause before they arrest anyone. It is important to note, too, that the MOU includes a formal complaint procedure and that DPS has not received the first complaint regarding its 287(g) participation.

Since their October 3, 2003, graduation, these 21 ICE-trained troopers have made several arrests of illegal immigrants in the course of their regular duties, including 44 cases accepted for federal prosecution. Five of these arrests were of previously deported illegal immigrants with felony convictions. The MOU troopers

also have made two cases of bulk cash smuggling (§31 USC 5332) and seized \$690,113.

Make no mistake: these 21 ICE-trained troopers are not federal immigration officers. They remain Alabama state troopers with primary duties in the Alabama Department of Public Safety's Highway Patrol and Driver License divisions, and that is precisely why the 287(g) program has been so successful in Alabama. These troopers enforce federal immigration law only as needed while carrying out their regular duties as Alabama state troopers.

Alabama's MOU with Homeland Security is a reasonable, common-sense platform that results in a win-win outcome both for the law enforcement community and for the citizens whom we serve.

I mentioned arrests a few moments ago. Have we made a significant number of arrests as part of this program? No, and we wouldn't expect to. But the arrests themselves are significant.

The first arrest was of a Korean man who applied for an Alabama driver license. He presented as his own a resident alien card belonging to a female. When the driver license examiner ran an NCIC report, which is routine procedure in Alabama, the examiner learned the applicant had prior convictions for armed robbery and two cases of possession of controlled substances. An MOU trooper detained the subject until ICE officers arrived.

Three examples of arrests made by MOU-trained Highway Patrol troopers are:

In one incident, a trooper stopped a vehicle on an interstate in Alabama for a routine traffic violation. The trooper found that both occupants of the vehicle had outstanding warrants and were aggravated felons. Both also had been previously deported. The two were turned over to ICE.

A second incident involved a van in Tuscaloosa County traveling on Interstate 20/59, which was stopped for a traffic violation by one of our Motor Carrier Safety units. The trooper received conflicting information from both the driver and front-seat passenger. There were a total of 16 persons in the van, which was going to Atlanta. They were detained, taken to the Tuscaloosa Post, and ICE was called. The MOU troopers started interviewing the driver, front-seat passenger and the other 14 passengers and initiated the necessary paper work. When the

Immigration agents arrived, the troopers had processed the 16 occupants, including interview sheets and fingerprint cards. The two drivers were charged with trafficking, and the other passengers were returned home by ICE. Troopers charged the driver with various DOT violations.

The third incident involved a stop of a foreign national for speeding on Interstate 65. The trooper ran the driver's license number and discovered it was not on file. The trooper contacted an MOU-trained trooper who, along with an ICE agent, went to the scene. Using the National Records database, the ICE-trained trooper was able to determine that the driver previously had been arrested in Denver in 1969, for entering the United States illegally. The driver was taken into custody by the ICE agent and transported to the ICE facility in Etowah County. The state trooper charged the driver with no state driver license, no proof of insurance and traveling 87 mph in a 50 mph construction zone.

Since the 1990s, the department has fielded an extremely aggressive anti-fraud program in driver licensing, with which the 287(g) program is entirely consistent. Just in the course of driver licensing, troopers make almost 5,000 arrests each year on a multitude of charges and outstanding warrants. One such arrest occurred November 22, 2004, in Opelika. A driver license examiner consulted one of our MOU troopers regarding a Social Security card she believed to be fraudulent. After examining the card, the MOU trooper determined it was, indeed, fraudulent. The trooper called the Social Security Administration and tried to verify the Social Security number on the card, but the number was invalid. The name on the card was Lisa Simone Hamilton. The MOU trooper called the female applicant into her office, told her she was under arrest for possession of a forged instrument, second degree, because of the Social Security card, and then tried to place handcuffs on her. The applicant immediately began to yell, "It's not mine!" then pushed the trooper, grabbed her purse and tried to leave the office. The woman continued to resist arrest to the point of breaking the arm of one of the driver license examiners and breaking the glass out of the front door. Once outside the building, the trooper was able to gain control of the applicant and cuff one arm while she was on the ground. An ambulance arrived and transported the injured driver license examiner to the hospital, and the applicant was then placed into a patrol car and transported to jail. It was determined that her name was Uchechukwuka Odita and she already was engaged in deportation proceedings. She also had in her possession a U.S. passport bearing the same name as the Social Security card. The passport, however, had Ms. Odita's picture on it.

The Alabama Department of Public Safety's responsibility is to protect and to serve everyone in Alabama, and the 287(g) program is a valuable tool that helps Alabama's troopers do a better job protecting and serving our state and nation. That is why the Alabama Department of Public Safety, Governor Riley and Senator Sessions have requested and ICE has agreed to retraining the 21 ICE-trained troopers and training a second class of 25 troopers.

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